

JUN 01 2010

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 09-90055

**ORDER****KOZINSKI**, Chief Judge:

Complainant alleges that a district judge assigned to his numerous pro se civil cases made improper substantive and procedural rulings. These charges relate directly to the merits of the judge's rulings and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant next alleges that the judge intentionally assigned himself complainant's cases for improper reasons and that the judge favored state and prison officials. But complainant hasn't provided any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support these allegations. See In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009). Specifically, there is no evidence that there was any deviation from the district court's normal procedures for assigning cases. Because there is no evidence that misconduct occurred, these charges must be

dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant further alleges that the judge failed to return one of his documents. But a judge has no duty to return documents to parties. This charge must be dismissed because the judge's conduct was and is not "prejudicial to the effective and expeditious administration of the business of the courts." See 28 U.S.C. § 351(a); Judicial-Conduct Rule 11(c)(1)(A); In re Complaint of Judicial Misconduct, 527 F.3d 792, 795 (9th Cir. Jud. Council 2008).

Complainant's request that criminal proceedings be instituted against the subject judge is not cognizable in the misconduct complaint procedure. The Executive, not the Judiciary, is responsible for deciding whether to bring criminal charges. Complainant's allegations against court staff and prison officials are also dismissed, because this misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4; In re Charge of Judicial Misconduct, 569 F.3d at 1093.

**DISMISSED.**